

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

GERALD D. BELL, #01889509,

Plaintiff,

v.

KEITH GORSUCH, et al.,

Defendants.

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Case No. 6:20-cv-358-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Gerald D. Bell, a Texas Department of Criminal Justice inmate proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.

On August 28, 2020, Judge Mitchell issued a Report and Recommendation recommending that the Court dismiss this case without prejudice for failure to comply with an order of the Court. Docket No. 9. Plaintiff filed timely objections. Docket No. 11.

Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other*

grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

In his objections, Plaintiff states that he is a member of the “class action lawsuit, civil case no. 6:20cv302.” He explains that he never filed a pro se civil rights lawsuit. However, on June 30, 2020, Judge Mitchell severed case number 6:20-cv-302 into ten individual lawsuits, including this case, after receiving individual motions to proceed *in forma pauperis* from those ten plaintiffs. See Docket No. 1. Judge Mitchell then granted Plaintiff *in forma pauperis* status in the present case and ordered Plaintiff to submit an initial, partial filing fee of \$16.00. Docket No. 6. Plaintiff failed to submit the fee as ordered. Accordingly, Plaintiff’s contentions concerning a class action lawsuit are misplaced.

Having conducted a de novo review of the record in this case and the Magistrate Judge’s Report, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff’s objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 9) as the opinion of the District Court. Plaintiff’s claims are **DISMISSED** without prejudice for failure to comply with a Court order. In the interests of justice, the Court hereby suspends the statute of limitations for a period of sixty days from the date of Final Judgment. See *Campbell v. Wilkinson*, 988 F.3d 798, 801 (5th Cir. 2021) (explaining that “[w]here further litigation of [a] claim will be time-barred, a dismissal without prejudice is no less severe a sanction than a dismissal with prejudice, and the same standard of review is used.”).

So **ORDERED** and **SIGNED** this **2nd** day of **November, 2022**.

A handwritten signature in black ink, appearing to read "Jeremy D. Kernodle", is written over a horizontal line.

JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE